

PROPOSED RESOLUTION

Resolution W-5035
DWA

AGENDA ID #14017

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch

RESOLUTION W-5035
June 25, 2015

RESOLUTION

**(RES. W-5035) JANUARY WATER COMPANY. ORDER
AUTHORIZING ELMER JANUARY AND SUBSEQUENT OWNERS
OF JANUARY WATER COMPANY, TO SELL JANUARY WATER
COMPANY AND AUTHORIZING MOHAMMAD T. ALSAHYBI
TO FORM THE ALI MUTUAL WATER COMPANY, INC.; AND THE
ALI MUTUAL WATER COMPANY, INC. TO BE EXEMPT FROM
CALIFORNIA PUBLIC UTILITIES COMMISSION JURISDICTION.**

SUMMARY

By Advice Letter No. 9 filed on March 23, 2015, Mohammad Ali Alsahybi, current owner of Ali Water Company (formerly January Water Company) requests California Public Utilities Commission approval for the following: (1) Prior sales of the January Water Company and the Ali Water Company; (2) Formation of the Ali Mutual Water Company from the Ali Water Company; and (3) Ali Mutual Water Company to be exempt from California Public Utilities Commission jurisdiction.

This Advice Letter was filed as a Tier 3 filing in compliance with Water Industry Rule 7.3.3.

Pursuant to Public Utilities Code §§ 851-854, this resolution grants authority for prior sales of the January Water Company, the last sale of the January Water Company (known as the Ali Water Company) to Mohammad Ali Alsahybi, the formation in Tulare County of the Ali Mutual Water Company, which serves a total of 13 connections, and the deregulation of the Ali Mutual Water Company from California Public Utilities Commission jurisdiction be approved pursuant to Public Utilities Code Section 2705.

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BACKGROUND

The last purchase of January Water Company (JWC) to Mahdi Ali Muharram, who changed the name of JWC to the Ali Water Company (AWC), and then sold AWC to Mohammad Ali Alsahybi, was made without either person being aware that JWC was under the jurisdiction of the California Public Utilities Commission (Commission). Mohammad Ali Alsahybi formed the Ali Mutual Water Company (AMWC) as a non-profit mutual benefit corporation as filed with the Secretary of State, State of California, on March 14, 2014. Each customer received an equal share for free in the newly formed AMWC. AMWC would then no longer be operating under jurisdiction of the Commission. Mohammad Ali Alsahybi, President of AMWC, requests that AMWC be exempt from Commission jurisdiction pursuant to Public Utilities (PU) Code Section 2705.

The Division of Water and Audits (Division) reviewed Mohammad Ali Alsahybi requests and recommends the approval of Advice Letter (AL) No. 9.

NOTICE AND PROTEST

AL No. 9 was served in accordance with General Order 96-B, on March 28, 2015, to adjacent utilities, the Local Agency Formation Commission, and the 13 customers of AMWC. No protests were filed.

DISCUSSION

Proposed water utility ownership changes are reviewed under PU Code §§ 851-854. PU Code §§ 851-854 prohibit the sale or transfer of control of a public utility without the advance approval of this Commission.

In response to the Division's request, Mohammad Ali Alsahybi has provided the Division with the following documents:

1. An All-Inclusive Purchase Deed of Trust (AWC included) between Mahdi Ali Muharram and James D. Hodges recorded July 30, 1997, with the County of Tulare.
2. A Grant Deed (JWC renamed AWC included) from Mahdi Muharram to Noman Alsahybi for Parcel No. 1: APN 195- 030-22 recorded October 21, 1999, with the County of Tulare.

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3. A Grant Deed from Mohammad T. Alsahybi, who acquired title as Noman Alsahybi to Mohammad T. Alsahybi, recorded November 15, 2000, with the County of Tulare.
4. A Certificate of Issue of a Water Supply Permit to AWC on January 6, 2011, by the Tulare County Environmental Health Services Division.
5. The Bylaws of the AMWC, Inc. dated December 11, 2013.
6. The AMWC, Inc. filed on March 14, 2014, a Statement of Information with the Secretary of State, State of California.
7. An Amendment to the Domestic Water Supply Permit issued to the AMWC, effective May 23, 2014, by the Tulare County Environmental Health Services Division.

AMWC is exempt from Commission regulations and jurisdiction per PU Code Section 2705, which states in part:

“Any corporation or association that is organized for the purpose of delivering water to its stockholders and members at costs,...is not a public utility, and is not subject to the jurisdiction, control and regulation of the commission.”

AMWC delivers water only to its members; and since it is a non-profit mutual benefit corporation, it also delivers water at cost.

The Division recognizes that some prior transactions of JWC, AWC, and AMWC did not follow PU Code Sections 851-854. The Division inquired of the Commission's Consumer Affairs Group for any complaints filed for JWC, AWC or AMWC. No complaints were filed with the Consumer Affairs Group. JWC and its successors have been an extremely small company with only 13 current customers. AMWC has been formed into a non-profit mutual benefit corporation to provide water at cost to its shareholders. AMWC has applied and obtained a Domestic Water Supply Permit from the Tulare County Environmental Health Services Division. AMWC filed the bylaws of AMWC with the State of California Secretary of State.

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The JWC was established in 1960 and the last rate increases approved by the Commission were in 1975 and 1977. The Commission was informed of a sale of the JWC in 1974. Several other sales of the JWC took place. Mohammad T. Alsahybi (Mohammad) purchased the JWC (now the AWC) in 1998 and Mohammad was not aware that the AWC was under jurisdiction of the Commission. Mohammad has obtained water supply permits, formed the AMWC to provide water at cost to the 13 customers and requests the Commission to deregulate the AMWC.

Although JWC and AWC should have sought Commission approval for the previous transfer of ownership, seeking penalties for these unauthorized transfers of ownership is not reasonable at this time. The Division notes that finding the past owners may be difficult, and most importantly, the previous owners have provided water at cost for this extremely small system of only 13 customers. The Division believes that it is in the public interest that the Commission should approve the transfer of the JWC to a non-regulated status as AMWC, a mutual water company. Therefore, JWC's Certificate of Public Convenience and Necessity should be revoked and its current tariffs on file with the Division should be cancelled.

COMPLIANCE AND SAFETY

There are no outstanding Commission orders requiring system improvements. According to the State Resources Control Board Division of Drinking Water, AMWC currently meets all applicable water quality standards. As this resolution resolves transfer of a regulated water utility to an unregulated mutual water corporation, there are no safety implications.

COMMENTS

This is an uncontested matter that pertains solely to a water corporation. Accordingly, pursuant to PU Code Section 311(g) (3), this resolution is exempt from the 30-day public review period.

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FINDINGS

1. The Division of Water and Audits finds that it is in the public interest to authorize previous sales of January Water Company and Ali Water Company.
2. The Division of Water and Audits finds that it is in the public interest for Ali Water Company to become the Ali Mutual Water Company.
3. The Division of Water and Audits finds that the Ali Mutual Water Company is exempt from the California Public Utilities Commission regulations and jurisdiction, per Public Utilities Code Section 2705, since it delivers water at cost only to its members in the service area of the Ali Mutual Water Company.
4. January Water Company's Certificate of Public Convenience and Necessity should be revoked effective the date of this Resolution.
5. January Water Company's current tariffs on file with the Division of Water and Audits should be cancelled effective the date of this Resolution.

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THEREFORE IT IS ORDERED THAT:

1. Prior unauthorized sales of the January Water Company and the Ali Water Company are approved.
2. The Ali Water Company is authorized to become the Ali Mutual Water Company, Inc., a non-profit mutual benefit corporation.
3. The Ali Mutual Water Company, Inc. is exempt from California Public Utilities Commission regulations and jurisdiction.
4. January Water Company's Certificate of Public Convenience and Necessity is revoked effective the date of this Resolution.
5. January Water Company's current tariffs on file with the Division of Water and Audits shall be cancelled effective the date of this Resolution.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 25, 2015, the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director

JANUARY WATER COMPANY
ADVICE LETTER 9
SERVICE LIST

Cal Water Service
216 N Valley Oaks Dr
Visalia

City of Tulare
411 E Kern Ave Suite F
Tulare, CA 93274

Pratt Mutual Water Company
32653 Lincoln Rd
Tulare, CA 93274

Woodville Public Utilities
16716 Avenue 168
Tulare, CA 93274

Patterson Tract Water District
32653 Lincoln Rd
Visalia, CA 93291

Local Agency Formation Commission
Tulare County Assoc. of Governments
210 N. Church St. Suite B
Visalia, CA 93291

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